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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,205	03/26/2004	Paula Klecka	PK-101	1967

7590 02/18/2005

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EXAMINER

REESE, DAVID C

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 02/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/811,205

Applicant(s)

KLECKA, PAULA

Examiner

David C. Reese

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

[1] Claims 1-24 are pending.

Drawings

[2] New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings should exemplify more detail and better quality, as a majority of the figures are too dark and shaded. Fig. 1, for example, though a general overview of part of the claimed invention, should still be of better quality and detail, so that paramount attributes and specifications of the claimed invention are more efficiently presented, and thus differentiated from other art. In the instant case, the darkness makes it difficult to distinguish the properties appropriately, as represented by 26 on the right side of the figure for example. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Specification

[3] The abstract of the disclosure is objected to because grammatical error; first line in the abstract states, "An gemstone presentation includes two..." should be "An gemstone presentation that includes two..." Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities:

On the page representing the listing of Claims, it is stated at the top: "We Claim." According to the oath, there is only one inventor, and thus, should read, "I Claim."

Appropriate correction is required.

Claim Rejections - 35 USC § 102

[4] The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3677

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

[5] Claims 1-4, 6, 9-10, and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Fishel, US-884,979.

Fishel teaches of a jewel bar.

As for Claim 1, Fishel teaches of a jewel bar including two or more gemstones, the article comprising:

a seat (2 in Fig. 1)-

a gemstone positioned on the seat (4 in 2 in Fig. 1);

two prongs positioned one on each side of the gemstone (the multiple 5 surrounding each gemstone in Fig. 1), each prong of the two prongs having a bezel formed therein (5 in Fig. 2), the gemstone retained within the bezel (4 into 5 in Fig. 2);

an additional seat (any one of the seats, 2, found in Figs. 1 and 7);

an additional gemstone positioned on the seat (4 into any one of the seats, 2, found in Figs. 1 and 7);

two additional prongs positioned one on each side of the additional gemstone (the multiple 5 surrounding each gemstone in Fig. 1), each prong of the two additional prongs having a bezel formed therein (5 in Fig. 2), the additional gemstone retained within the bezel (4 into 5 in Fig. 2), and

a shared prong positioned between the gemstone and the additional gemstone (the multiple 5 surrounding each gemstone in Fig. 1), the shared prong having a bezel formed on each side to partially engage with a respective inner edge of the gemstone and the additional gemstone (4 into 5 in Fig. 2), the article of jewelry including an exposed and unbound outer edge of the gemstone and an exposed and unbound outer edge of the additional gemstone, each exposed and unbound outer edge opposite the shared prong and the respective inner edge (this relationship as viewed between the gemstones, 4, and 5 in Fig. 1, one can note the exposed and unbound outer edge of each gemstone).

As for Claim 2, Fishel teaches of a jewel bar including two or more gemstones, Re: Claim 1, wherein the seat includes a conical taper that engages with the gemstone (2 in Fig. 6).

As for Claim 3, Fishel teaches of a jewel bar including two or more gemstones, Re: Claim 1, further comprising:

- a second additional seat (any one of the seats, 2, found in Figs. 1 and 7);
- a second additional gemstone positioned within the seat (4 into any one of the seats, 2, found in Figs. 1 and 7); and

- a second shared prong positioned between the additional gemstone and the second additional gemstone (the multiple 5 surrounding each gemstone in Fig. 1).

As for Claim 4, Fishel teaches of a jewel bar including two or more gemstones, Re: Claim 1, further comprising:

- an array of additional seats (any one of the seats, 2, found in Figs. 1 and 7);

a corresponding array of additional gemstones positioned within the respective seats (4 into any one of the seats, 2, found in Figs. 1 and 7), each additional gemstone of the array of additional gemstones positioned between two prongs (the multiple 5 surrounding each gemstone in Fig. 1); and

a shared prong positioned between each additional gemstone of the array of additional gemstones so that each gemstone along an outer edge of the article of jewelry includes an exposed outer edge (this relationship as viewed between the gemstones, 4, and 5 in Fig. 1, one can note along the outer edge of the article a exposed and unbound outer edge of each gemstone).

As for Claim 6, Fishel teaches of a jewel bar including two or more gemstones, Re: Claim 4, wherein the array of additional gemstones are formed in a lattice (Figs. 1 and 7).

As for Claim 9, Fishel teaches of a article of jewelry, comprising:

a plurality of gemstones (4), each gemstone of the plurality of gemstones positioned in a seat (4 into 2);

a pair of prongs positioned one on each side of each gemstone (the multiple 5 surrounding each gemstone in Fig. 1);

a shared prong positioned between each gemstone (the multiple 5 surrounding each gemstone in Fig. 1); and

each gemstone positioned at a peripheral edge of the article of jewelry including an exposed outside edge (the exposed outside edge of 4 in Fig. 1).

As for Claim 10, Fishel teaches of a article of jewelry, Re: Claim 9, wherein the seat comprises a tapered ring (2 in Fig. 6).

As for Claim 12, Fishel teaches of a article of jewelry, Re: Claim 9, wherein the array of additional gemstones are formed in a lattice (Figs. 1 and 7).

As for Claim 13, Fishel teaches of a article of jewelry, Re: Claim 9, wherein each prong of the pair of prongs (the multiple 5 surrounding each gemstone in Fig. 1) includes a bezel formed along an inside edge of the prong (5 in Fig. 2), an edge of the gemstone fitting within the bezel (4 into 5 in Fig. 2).

As for Claim 14, Fishel teaches of a article of jewelry, Re: Claim 9, wherein the shared prong includes a pair of bezels formed along each of two opposite sides of the shared prong, the pair of bezels accommodating inner edges of adjacent gemstones of the plurality of gemstones (the multiple 5 surrounding each gemstone in Fig. 1).

[5] Claims 15-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Vivat, US-5,520,017

Vivat teaches of jewelry items with invisible gemstone settings and methods of assembly therefore.

As for Claim 15, Vivat teaches of a ring (42) comprising:
a plurality of gemstones aligned in a row (54 in Fig. 9);
a pair of prongs (62, 64 in Fig. 7), each prong of the pair of prongs positioned on opposite sides of each gemstone of the plurality of gemstones (Fig. 7); and

a shared prong positioned between each gemstone in the row (64 in Fig. 7), so that an outer edge of each outer gemstone in the row is exposed (outer edge of gemstone 54, on the left and right sides in Fig. 9).

As for Claim 16, Vivat teaches of a ring (42), Re: Claim 15, comprising:

a second row of a second plurality of gemstones positioned adjacent the row (the row adjacent to 54 in Fig. 9).

As for Claim 17, Vivat teaches of a ring (42), Re: Claim 16, comprising:

a third row of a third plurality of gemstones positioned adjacent the second row (two rows over from the first row 54 in Fig. 9).

As for Claim 18, Vivat teaches of a ring (42), Re: Claim 15 wherein the plurality of gemstones are formed in an array (54 in Fig. 9).

As for Claim 19, Vivat teaches of a ring (42), Re: Claim 18 wherein the array forms a lattice (Fig. 9).

As for Claim 20, Vivat teaches of a ring (42), Re: Claim 18 wherein the array forms a lattice is one of generally planar along one face of the ring (54 in 56 in Fig. 5) and curved around a circumference of the ring (56 submitted into the curved circumference of the ring 50 in Fig. 6).

As for Claim 21, Vivat teaches of a gemstone presentation comprising:

a plurality of gemstones aligned in a row (54 in Fig. 9);

a pair of prongs (62, 64 in Fig. 7), each prong of the pair of prongs positioned on opposite sides of each gemstone of the plurality of gemstones (Fig. 7); and

a shared prong positioned between each gemstone in a row (62, 64 in Fig. 7), so that each adjacent pair of gemstones (54 and its adjacent set of gemstones) is at least partially retained by the shared prong (62, 64 in Fig. 7).

As for Claim 22, Vivat teaches of a gemstone presentation, Re: Claim 21, comprising:

a second row of a second plurality of gemstones positioned adjacent the row (the row adjacent to 54 in Fig. 9).

As for Claim 23, Vivat teaches of a gemstone presentation, Re: Claim 21, comprising:

a third row of a third plurality of gemstones positioned adjacent the second row (two rows over from the first row 54 in Fig. 9).

As for Claim 24, Vivat teaches of a gemstone presentation, Re: Claim 21, wherein the plurality of gemstones are formed in an array (54 in Fig. 9) so that adjacent pairs of gemstones share the shared prong (set of gemstones, adjacent to 54, sharing 62, 64).

Claim Rejections - 35 USC § 103

[6] The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

[7] Claims 5, 7-8, 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fishel, US-884,979.

Fishel discloses the claimed invention except for stating that the array of multiple gemstones and their respective holding means can be found respectively: in a ring shape, positioned on a ring, and positioned on a pendant. It would have been obvious to one having ordinary skill in the art at the time the invention was made to change the shape or order of the multiple gemstones as well as manipulating the substrate by which this array is housed in. These are common ways to display gemstones as readily appreciated by anyone familiar in the art, as a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Conclusion

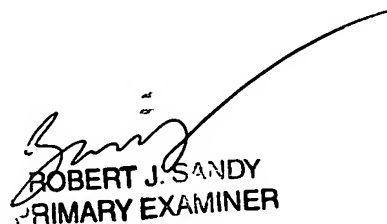
[8] The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited further to show the state of the art with respect to this particular type of structure; as well as their extreme relevance to the current application as many read extensively onto the claimed invention: Guild, 755,654; Freilich, 4,878,364; Gurevich, 6,442,971; Hoffman, 6,112,552; Ouzounian, 5,848,539; Vartanian, D488,088; Vitau, 4,292,818; Sikorski et al., D396,823; Simon, D114,649; Pejchar, 1,441,597; Holl, 2,584,207; Donchi, D152,068;

[9] Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Reese whose telephone number is 703-305-4805. Due to a future move, however, this number will change after the 31 of March. After this date, the examiner can be reached at (571) 272- 7082. The examiner can normally be reached 7:30 am - 5:00 pm M-Th, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on (703) 306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



ROBERT J. SANDY
PRIMARY EXAMINER

Sincerely,
David Reese
Examiner
Art Unit 3677